

**III. REMARKS**

1. Claim 17 is amended to clarify the language of the claim.
2. Claims 1-4, 6, 10, 17 and 19 are not unpatentable over Yonemura (JP 2000-172589) in view of Nozaki (JP 4 1025713 1A) under 35 U.S.C. §103(a).

Claim 1 recites that "during" the communication, the caller or called party receiving the message hears the musical composition representing the affective state of the caller. This is not disclosed or suggested by the combination of Yonemura in view of Nozaki.

Yonemura discloses a method for expressing an affective state of a caller and/or called party by transmitting an emotion image together with a message. Yonemura fails to disclose a method where the affective state is expressed with a musical composition.

In Nozaki call-incoming sound is used to express the urgency of a call-originating business and the emotion of a call-originating side. This is done by modifying the normal call-incoming sound of the phone with music data. In Nozaki, the emotion and intentions on the call originating side are thus expressed before the actual telephonic communication between the caller and called party starts.

Significantly, Nozaki states that the "emotion" of the call-originating side corresponding to a "call-incoming mode" to a "call-setting message" and "call-originating" so as to "enable" identifying "call-originating." In Nozaki, the call is originated by setting desired music data. (Abstract) In Applicant's invention, as recited in claim 1, the caller and called party send each other messages, and the musical

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composition is heard "during" the communication, not at call-origination. In Nozaki, the call-incoming sound modified by the caller is used to express the emotions of the caller. When making the call the caller cannot know the actual situation of the recipient of the call or the presence of possible bystanders nearby. Therefore, the caller may not dare to express his true emotions with a call-incoming sound, which can be heard by outsiders or anyone near the phone. In the present invention the musical compositions representing the affective state can be heard only by conversation partners i.e. the caller and the called party. Nozaki does not disclose that musical composition could be used to express the affective state of the caller and/or called party in a message during conversation like in the present invention. Therefore, the combination of Yonemura and Nozaki does not disclose the features of claims 1 and 17.

Claims 2-4, 6, 10 and 19 should be allowable at least in view of their respective dependencies.

3. Claims 5, 7-9, 11-16, 18 and 22 are not unpatentable over Yonemura, Nozaki and Goldberg under 35 U.S.C. §103(a) at least by reason of their respective dependencies.

4. Claims 20-21 are not unpatentable over Yonemura in view of Nozaki and further in view of Armando et al. ("Armando") (U.S. 6,094,587) under 35 U.S.C. §103(a) at least by reason of its dependency.

Armando is also commonly owned by Nokia Mobile Phones, Ltd., the assignee of the instant application.

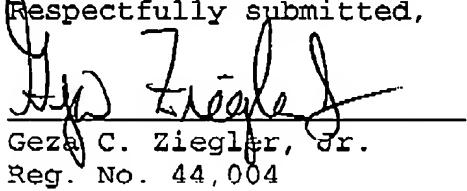
5. Claim 23 is not unpatentable over Yonemura in view of Nozaki in view of Makelaet et al. ("Makelaet") (U.S. 6,501,967) under 35 U.S.C. §103(a) at least by reason of its dependency.

Also, Makelaet is not prior art against Applicant's invention for purposes of 35 U.S.C. §103(a). Makelaet is commonly owned by Nokia Mobile Phones, Ltd., the assignee of the instant application and is only §102(e) art. Therefore, pursuant to 35 U.S.C. §103(c), Makelaet does not qualify as prior art for purposes of 35 U.S.C. §103(a).

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
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